

LORRAINE LND
JUNE

DEPARTMENT OF THE AIR FORCE

HEADQUARTERS AIR FORCE MATERIEL COMMAND
WRIGHT-PATTERSON AIR FORCE BASE, OHIO

24 JUN 1994

MEMORANDUM FOR SEE DISTRIBUTION

FROM: HQ AFMC/PK
4375 Chidlaw Road, Suite 6
Wright-Patterson AFB OH 45433-5006

SUBJECT: Revised Interim Air Force Policy on Economy Act Purchases - ACTION
MEMORANDUM

1. By direction of the SECDEF, the Director of Defense Procurement has revised the policy and procedures governing Interagency Acquisitions Under the Economy Act, DFARS Subpart 217.5. At the same time, SAF/AQC has revised its AFFARS policy relative to the role of the contracting officer in the Economy Act order approval process. These revised policies and procedures are effective immediately and should receive widest dissemination.

2. The most significant change found in the DFARS Subpart 217.5 revision is concerning the new role of the contracting officer in the approval process for Economy Act orders going outside of DoD. The SECDEF has directed that a written Determination and Findings (D&F) shall be prepared by the requesting agency and approved at a "level no lower than SES/Flag/General Officer at the requesting activity." With this change, contracting officers will no longer approve D&Fs for Economy Act orders. However, the contracting officer, if requested, will assist requirements personnel in preparing the written determination to support Economy Act Orders.

3. The AFFARS Subpart 5317.5 has been revised to incorporate the latest SECDEF direction and further refine Air Force procedures for making Interagency Acquisitions Under the Economy Act. The following key areas are addressed in the revised AFFARS Subpart 5317.5:

a. The responsibility for preparing and approving Economy Act D&Fs rests with the requiring activity. (AFFARS 5317.502-90(c))

b. When Air Force activities decide to place an interagency order under the Economy Act with an agency outside the DoD, the decision shall be documented in a written D&F. (AFFARS 5317.503-90(a)) As directed by the SECDEF, approval of these D&Fs are at a level no lower than an SES/Flag/General Officer in the requesting activity's chain of command. If an SES/Flag/General Officer is not available at the installation, the D&F will be approved by the Wing or Installation Commander. (AFFARS Subpart 5317.503-90(a)).

c. Unlike the DFARS guidance, SAF/AQC has mandated that Air Force contracting officers will remain in-the-loop on all Economy Act orders going outside the DoD. These D&Fs "shall be reviewed by the Air Force contracting officer who would normally have procured the

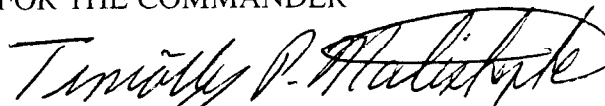
atch 94-16C (FAR 17) Post to DFARS 217.5 and AFFARS 5317.5 by circling the references and noting in the margin: "70-41, atch 94-16C". Then file this atch behind the sups to FAR 17.

requirement." The contracting officer will now serve as a "business advisor" to the approval authority. (AFFARS Subpart 5317.503-90(b))

d. When the Air Force becomes a servicing agency under the Economy Act, the revised AFFARS addresses these procedures. Specifically, the Air Force is not required to accept the requesting agency's order, if ordering will prevent the Air Force from fulfilling its mission, or the requesting agency fails to provide appropriate supporting information. The Air Force shall process these orders in accordance with normal policies and procedures for awarding and modifying contracts to include complying with the Competition in Contracting Act. (AFFARS Subpart 5317.504-90(g))

4. We have included the SAF/AQC letter, 17 May 1994 (with 3 Attachments) which provides the policy, procedures, and a model D&F for your use in processing Economy Act orders. Pending formal publication of this policy in the DFARS and AFFARS, file this letter at AFFARS 5317.502-90. Please ensure this letter receives the widest dissemination. If you have any questions, please call me or have your staff call my action officer, Maj Paul Dries, HQ AFMC/ PKP, DSN 787-6055.

FOR THE COMMANDER



TIMOTHY P. MALISHENKO
Colonel, USAF
Director of Contracting

Attachment:

SAF/AQC Revised Interim AF Policy, 17 May 94,
w/3 Attachments

Distribution:

AEDC/PK
AFDTC/PK
AFFTC/PK
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DEPARTMENT OF THE AIR FORCE
WASHINGTON DC



OFFICE OF THE ASSISTANT SECRETARY

17 MAY 1994

MEMORANDUM FOR ALMAJCOM-FOA-DRU (CONTRACTING)

FROM: SAF/AQC

1060 Air Force Pentagon
Washington DC 20330-1060

SUBJECT: Revised Interim Air Force Policy On Economy Act Purchases - ACTION
MEMORANDUM

The Director of Defense Procurement's 25 Apr 94 memorandum (Atch 1) revised DFARS Subpart 217.5 to redefine the role of the contracting officer in the approval process for Economy Act orders going outside the DoD. Contracting officers will no longer approve Determinations and Findings (D&Fs) for Economy Act orders. This approval authority has been assigned "to a level no lower than SES/Flag/General Officer at the requesting activity" per the Secretary of Defense memorandum (Atch 2). The new role of the contracting officer would be as a "business advisor, if requested" to the SES/Flag/General Officer. Contracting officers bring sound business judgment and procurement experience to the task of reviewing D&Fs.

These changes have been incorporated into a revised interim AFFARS policy (Atch 3) that replaces AFAC 92-37, Item E-1, published in March 1994. However, the Air Force policy differs from the DFARS in one significant way. The involvement of contracting officers in the processing of orders under the Economy Act has helped reduce the abuses and misuses. We want to continue this trend and continue our efforts to eliminate this material weakness in the Air Force's internal management control system. Therefore, we are mandating that Air Force contracting officers remain "in-the-loop" on all Economy Act orders going outside DoD. They will serve as "business advisors" by reviewing all D&Fs and providing written comments/advice to the SES/Flag/General Officer. The AFFARS contains policy, procedures, and a model D&F for use by requiring activities in preparing D&Fs and for use by contracting officers in reviewing D&Fs.

We are also working a revision to the Assistant Secretary of the Air Force (Acquisition) Policy Memorandum 93M-008, 10 Mar 1993. Additionally, we will use Command channels to advise SES/Flag/General Officers on their new responsibility. We must continue to work this tough issue until we are confident we have resolved the problems with Economy Act orders. Customer education and customer interaction are at the forefront of our

efforts. Compliance with the FAR, as supplemented in DFARS and the attached AFFARS, will resolve practically all of the problems we've encountered in the DoD. Questions regarding Economy Act issues may be directed to Maj Robert D. Winiecki at DSN 227-1136 or commercial (703) 697-1136.



ROBERT W. DREWES, Brig Gen, USAF
Deputy Assistant Secretary
(Contracting)
Assistant Secretary (Acquisition)

Attachments:

1. ODDP Memo, 25 Apr 94
2. SECDEF Memo, 8 Feb 94
3. AFFARS Part 5317.5

Atch 94-16C (FAR 17)

ACQUISITION AND
TECHNOLOGY

OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON
WASHINGTON DC 20301-3000
April 25, 1994

DP (DAR)

In reply refer to
DFARS Case: 94-D303
D.L. 94-007

MEMORANDUM FOR DIRECTORS OF DEFENSE AGENCIES
DEPUTY FOR ACQUISITION POLICY, INTEGRITY, AND
ACCOUNTABILITY, ASN(RD&A)/API&A
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE
(CONTRACTING), SAF/AQC
DIRECTOR, PROCUREMENT POLICY, ASA(RD&A)/SARD-PP
DEPUTY DIRECTOR (ACQUISITION), DEFENSE LOGISTICS AGENCY

- SUBJECT: Economy Act

By memorandum of February 8, 1994 (copy attached), the Secretary of Defense established requirements for approval of a written determination before an Economy Act order may be released outside of DoD for contracting action.

We have revised Subpart 217.5 of the Defense Federal Acquisition Regulation Supplement (DFARS) to define the role of the contracting officer in the approval process for Economy Act orders. Contracting officers should provide advice, if requested, to assist requirements personnel in the preparation of written determinations to support Economy Act orders.

The attached final DFARS rule is effective immediately and will be published in a future Defense Acquisition Circular.

Eleanor R. Spector
Director, Defense Procurement

Attachments

cc: DSMC, Ft. Belvoir

Atch 94-16C (FAR 17)



Atch 1

DEFENSE FEDERAL ACQUISITION REGULATION SUPPLEMENT

SUBPART 217.5--INTERAGENCY ACQUISITIONS UNDER THE ECONOMY ACT

217.500 Scope of subpart.

Acquisitions from required sources, as described in FAR Part 8, are not orders under the Economy Act.

217.502 General.

If requested, the contracting officer who normally would contract for the requesting activity should advise in the determination process.

217.503--Deleted.

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THE SECRETARY OF DEFENSE
WASHINGTON, THE DISTRICT OF COLUMBIA

8 FEB 1994

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
CHAIRMAN OF THE JOINT CHIEFS OF STAFF
UNDER SECRETARIES OF DEFENSE
DIRECTOR, DEFENSE RESEARCH AND ENGINEERING
ASSISTANT SECRETARIES OF DEFENSE
COMPTROLLER
GENERAL COUNSEL
INSPECTOR GENERAL
DIRECTOR, OPERATIONAL TEST AND EVALUATION
ASSISTANTS TO THE SECRETARY OF DEFENSE
DIRECTOR OF ADMINISTRATION AND MANAGEMENT
DIRECTORS OF THE DEFENSE AGENCIES

SUBJECT: Use of Orders Under the Economy Act

Before an Economy Act order is released outside of DoD for contracting action, the head of the requesting agency or designee shall determine that:

- the ordered supplies or services cannot be provided as conveniently and cheaply by contracting directly with a private source;
- the servicing agency has unique expertise or ability not available within DoD; and
- the supplies or services clearly are within the scope of activities of the servicing agency and that agency normally contracts for those supplies or services for itself.

The head of agency may delegate this determination only as follows:

- If the servicing agency is required to comply with the Federal Acquisition Regulation (FAR), the written determination shall be prepared by the requesting agency and approved at a level no lower than SES/Flag/General Officer at the requesting activity. In the event the requesting activity does not have an SES/Flag/General Officer, the commander of that activity shall approve the written determination.

Atch 94-16C (FAR 17)

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- If the servicing agency is not covered by the provisions of chapter 137 of title 10, United States Code, or title III of the Federal Property and Administrative Services Act of 1949 and is not required to comply with the FAR, the written determination must be approved by the Senior Procurement Executive responsible for purchasing for the requesting agency.

To implement this policy statement and to comply with section 844 of the National Defense Authorization Act for Fiscal Year 1994, I am directing that the following actions be accomplished within 90 days:

- The Comptroller shall issue appropriate accounting and finance guidance requiring that documented determination and finding approvals be provided to accounting officers prior to committing funds on Economy Act orders.
- The Under Secretary of Defense for Acquisition and Technology (USD(A&T)) shall reissue DoDI 4000.19, "Interservice, Interdepartmental, and Interagency Support," to incorporate the policy statement and approval requirements as delineated above and in section 844. The DoDI shall also establish the requirement for a tracking system to report, on an annual basis to the USD(A&T), the number and associated dollars of Economy Act orders released outside of DoD.
- The USD(A&T) shall modify the Defense Federal Acquisition Regulation Supplement to define the role of the contracting officer in the approval process for Economy Act orders.

William J. Perry



THE SECRETARY OF DEFENSE

WASHINGTON, THE DISTRICT OF COLUMBIA

8 FEB 1994

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
 CHAIRMAN OF THE JOINT CHIEFS OF STAFF
 UNDER SECRETARIES OF DEFENSE
 DIRECTOR, DEFENSE RESEARCH AND ENGINEERING
 ASSISTANT SECRETARIES OF DEFENSE
 COMPTROLLER
 GENERAL COUNSEL
 INSPECTOR GENERAL
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n 94-16C (FAR 17)

Atch 2

- If the servicing agency is not covered by the provisions of chapter 137 of title 10, United States Code, or title III of the Federal Property and Administrative Services Act of 1949 and is not required to comply with the FAR, the written determination must be approved by the Senior Procurement Executive responsible for purchasing for the requesting agency.

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- The USD(A&T) shall modify the Defense Federal Acquisition Regulation Supplement to define the role of the contracting officer in the approval process for Economy Act orders.

William J. Perry

AFFARS 5317.5 - - INTERAGENCY ACQUISITIONS UNDER THE ECONOMY ACT

5317.502-90 Air Force requirements for placing orders.

- (a) The Economy Act permits a federal agency to order supplies and services from another federal agency under certain conditions. The Act was designed to promote economy in Government operations by permitting efficient use of Government resources, even though they may be in another agency. This eliminates duplication of effort to build expertise in several agencies and allows a federal agency to take advantage of another federal agency's substantial experience in a specific area. The Economy Act also promotes the economy that results from consolidating requirements, i.e., quantity discounts and other tangible or intangible benefits.
- (b) Orders to purchase supplies or services under contracts entered into or administered by another agency (or for supplies/services produced in-house by the servicing agency), may be placed with other agencies under the Economy Act only if:
 - (1) The purchase is appropriately made under an existing contract that the servicing agency entered into, before the requesting agency's order was placed, in order to meet the requirements of the servicing agency for the same or similar goods or services;
 - (2) The servicing agency is better qualified to enter into or administer the contract for such goods or services (or is producing the good or service in-house) because they possess capabilities or expertise not available within the Air Force;
 - (3) The servicing agency is specifically authorized by law or regulation to purchase the goods and services on behalf of other agencies; or,
 - (4) The purchase is authorized by an executive order or specifically allowed elsewhere in the FAR.
- (c) The Air Force shall not place an order with another agency unless adequate supporting documentation, including a Determination and Finding, is prepared. This supporting documentation shall be prepared and developed by the requiring activity. Supporting documentation and general information about the servicing agency's contract will be used in the preparation of the Determination and Findings (D&F) described in 5317.503-90.
- (d) Interagency acquisitions are entered into by mutual agreement between the requesting agency and the servicing agency. If a requesting agency's

order will interfere with the servicing agency's ability to meet its mission, the servicing agency may reject the order. The servicing agency can also reject the order if the requested supply or service is not within the scope of activities normally performed by the agency, within the scope of work of a particular contract, or if the order lacks adequate funding or required supporting data.

(e) The Economy Act may not be used to circumvent the conditions and limitations imposed on the use of Government funds appropriated for the procurement (i.e. Expiration of funds at the end of a fiscal year). This applies to conditions and limitations affecting either the requesting or the servicing agency.

(f) Orders for supplies or services may also be placed with other agencies under authorities other than the Economy Act. Orders placed under these authorities are not subject to the requirements of the Economy Act. These additional authorities include:

(1) Acquisitions from required sources, as described in FAR Part 8.

(2) Coordinated acquisitions, prescribed in DFARS Part 208.

(3) Project Orders (41 U.S.C. 23). Project orders are authorized for use when one government agency wishes to procure a supply or service from another government agency. DoD Instruction 7220.1 governs the use of project orders within the DoD. There are several conditions for use of the project order including the requirements that the servicing agency must be capable, be authorized, and produce the item or perform the service in-house. Only an incidental portion of a project order may be contracted-out by the servicing agency.

(4) Other specific statutory authorities may be used to acquire supplies and services from another agency.

5317.503-90 Air Force determination requirements.

(a) The decision by an Air Force activity to place an interagency order under the Economy Act with an agency outside the Department of Defense, instead of contracting directly with a private source, shall be documented in a written Determination and Findings (D&F). The requiring activity shall prepare the D&F for approval at a level no lower than SES/Flag/General Officer in the requesting activity's chain of command. If an SES/Flag/General Officer in the requesting activity's chain of command is not

available at the installation, the D&F will be approved by the Wing or Installation Commander.

- (b) The D&F shall be reviewed by the Air Force contracting officer who would normally have procured the requirement. The contracting officer will review the proposed D&F and supporting documentation as a "business advisor" to the approval authority. The content of the D&F will be compared to the policies and procedures contained in applicable FAR, DFARS, and AFFARS Subparts. The ability of the local contracting office to procure the requirement under an Air Force contract will also be considered. Written comments will be provided to the approval authority to help in the decision to place the order with an agency outside the DoD.
- (c) When assessing the cost of obtaining the supplies or services through an interagency agreement, the Air Force shall consider any administrative fees charged by the servicing agency as part of the total cost of the order. In accordance with Section 844 of the National Defense Authorization Act for FY 1994, fees paid to the servicing agency shall not exceed the actual cost or, if actual costs are unknown, the estimated costs of entering into and administering the contract or other agreement under which the order is filled. The administrative cost of providing the supplies or services by normal Air Force contracting procedures shall also be considered.
- (d) The requiring activity shall include with the Military Interdepartmental Procurement Request (MIPR) any documentation required to support the D&F. Examples include independent cost estimates and documentation of urgency of need. Copies of the documentation shall be retained with the requiring activity's file copy of the MIPR and provided to the servicing agency upon their request.
- (e) If the work was previously performed by Government personnel and will now be performed by a contractor under a servicing agency's contract (or if the work was previously performed under a contract and will now be performed in-house by the servicing agency), the requiring activity must have complied with the requirements of FAR Subpart 7.3, Contractor versus Government Performance. This shall be documented in the D&F.
- (f) The contracting office shall retain a record copy of each Economy Act D&F in a central file.

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(g) The requiring activity shall prepare a D&F substantially the same as the model shown below. The D&F may be tailored to appropriately address the instant requirement.

Model Determination and Findings

1. I have reviewed the requirement for (description of supply or service to be procured) that (Air Force requiring activity) intends to place with (Agency) as an interagency order under the Economy Act. My review produced the following findings:
 - a. The proposed acquisition is authorized under the authority of the Economy Act.
 - b. The Air Force is legally authorized to acquire the supplies or services.
 - c. Adequate funds are available.
 - d. The action does not conflict with any other agency's authority or responsibility. Specifically, a review of Part 8 of the FAR, Part 208 of the DFARS, or other part as applicable, reveals that the responsibility for acquiring this supply or service has not been assigned to an agency other than the one proposed.
 - e. The supplies or services cannot be provided as conveniently and more economically by private contractors under an Air Force contract.
 - f. The servicing agency has unique expertise or ability not available within the Department of Defense.
 - g. The servicing agency will accept the order and can satisfy the requirement.
 - h. The supplies or services are clearly within the scope of activities of (Agency) and that agency normally contracts for (and/or produces in-house) those supplies or services for itself.
 - i. The cost to the Air Force for the requirement, including the administrative fees charged by (Agency) appears to be reasonable. The fees proposed to be paid to the servicing agency do not exceed the servicing agency's actual cost (or estimated costs if actual costs are unknown) of entering into and administering the contract or other agreement under which the order is filled.

j. The contract administration procedures related to (Agency)'s contract are adequate for Air Force requirements (or the order contains additional contract administration requirements that will result in contract administration procedures that comply with Air Force and DoD regulations and policies.)

k. All approvals and authorizations required by Air Force and/or DoD policies for acquiring the supplies or services have been obtained.

l. The requirement is a bona-fide need of the Air Force.

(Add the following if the work will be performed by a Federally Funded Research and Development Center:)

m. The work will be performed by a Federally Funded Research and Development Center (FFRDC). Performance by the FFRDC will not place the servicing agency and its FFRDC in direct competition with private sources.

(Add the following if the work was previously performed by Government personnel and will now be performed by a contractor under a servicing agency's contract (or if the work was previously performed under a contract:))

n. The requiring activity has complied with the requirements of FAR Part 7.3, Contractor versus Government Performance.

2. Given the findings outlined above, I hereby determine that it is in the best interest of the Government to place an order for (requirement) with (Agency) under the authority of the Economy Act.

5317.504-90 Air Force Ordering Procedures.

(a) The Air Force shall include complete contract administration requirements and contract audit responsibilities appropriate for the type of contract and scope of work on all orders placed outside of the Department of Defense.

(b) If it is necessary for the servicing agency to award a contract or modify an existing contract to accommodate the Air Force's order, the Air Force requiring activity shall supply all supporting data necessary to prepare the required contract documentation.

(c) The Air Force requiring activity shall also provide special contract terms or other requirements applicable to Air Force funds. This includes

information such as special funds tracking and reporting requirements, additional contract administration requirements, special delivery or packaging instructions, a copy of the executed determination, and other supporting documents.

(d) Additional D&Fs are not required to incrementally fund an existing order or to administratively modify an order, if the scope of work remains the same throughout the order's period of performance.

(e) The servicing agency is responsible for complying with the Competition in Contracting Act when it awards the original contract. Therefore, the requesting agency is not required to compete the requirement between potential servicing agencies.

(f) Relationships with a servicing agency can involve one order or many orders over a long period of time. Where the Air Force desires to enter into a long term, continuing relationship with a servicing agency under the authority of the Economy Act, the requiring activity should ensure that the resulting interagency agreement includes, in addition to any other requirements of this section, the following:

(1) Enhanced management controls, as appropriate for the circumstances, to ensure that the interagency agreement is only used for its intended purpose(s). Such controls shall include a mechanism for periodic reassessment of the interagency agreement, at intervals not exceeding every five years, to determine its continuing need and relevancy. The review shall be conducted by the same personnel that review similar requirements that are being separately procured by the Air Force. The reassessment shall include review by a contracting officer to ensure that the agreement complies with appropriate business practices.

(2) A well-defined scope of work that includes clear objectives, work areas, and, where appropriate, reports and deliverables; and,

(3) A definitive term of agreement.

(g) The following policy applies to orders placed with the Air Force as a servicing agency under the Economy Act

(1) The Air Force is not required to accept the requesting agency's order, if accepting the order will prevent the Air Force from fulfilling its mission or the requesting agency fails to provide appropriate supporting information, funding, and evidence of an appropriate level of requesting agency approval.

(2) The Air Force shall process the order in accordance with normal internal policies and procedures for awarding and modifying contracts. This includes complying with the Competition in Contracting Act.

(3) The Air Force contracting officer shall execute and issue all D&Fs or J&As required by Air Force regulations to place the order on contract, just as if the requirement was generated by an Air Force activity.

(4) Before allowing a non-sponsoring agency to use an FFRDC, the Air Force shall ensure that the work falls within the purpose, mission, general scope of effort, or special competency of the FFRDC. (See 35.017; see also 6.302 for procedures to follow when using other than full and open competition.) If the order does not conform with these requirements, the Air Force may not place the order with the FFRDC. The order also may not be placed with the FFRDC if the sponsoring agreement does not permit work from other than the sponsoring agency.

5317.590 Orders with agencies not covered by the FAR. In accordance with Section 844 of the National Defense Authorization Act for FY 1994, orders may not be placed with agencies not required to comply with the FAR unless the purchase is approved in advance by the Air Force Senior Acquisition Executive (SAF/AQ). This approval authority has been delegated to the Air Force Deputy Assistant Secretary (Contracting), SAF/AQC. Approvals will be accomplished by forwarding the D&F (and necessary supporting documentation) through SAF/AQCO for endorsement by the Air Force Deputy Assistant Secretary (Contracting), SAF/AQC. Prior to submittal to SAF/AQCO, the D&F must be reviewed by an Air Force contracting officer and coordinated by the SES/Flag/General Officer in the requiring activity's chain of command (See 5317.503-90(a)).